

AMENDED IN SENATE AUGUST 21, 1996

AMENDED IN SENATE AUGUST 6, 1996

AMENDED IN SENATE JULY 3, 1996

AMENDED IN ASSEMBLY MAY 28, 1996

AMENDED IN ASSEMBLY APRIL 29, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2328

Introduced by Assembly Member Hoge

February 15, 1996

An act to amend Sections 679.03, ~~3058.6~~ and 3058.8 of the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

AB 2328, as amended, Hoge. Parole: violent offenders: notification of release.

~~Under existing law, whenever a person who has been convicted of a violent felony is scheduled to be released on parole, the paroling authority is required to notify the local law enforcement authorities having jurisdiction over the community into which the inmate is scheduled to be released. That notice is required to be made at least 15 days prior to the scheduled release date if the inmate will be released into the county from which he or she was committed, or at least 45 days prior to that date if he or she will be released into another county.~~

~~This bill would require the notice to be at least 45 days prior to the scheduled release date in all cases.~~

Under existing law, when ~~the above~~ notice is sent to local law enforcement authorities *that a violent felon is scheduled to be released on parole*, the paroling authority is also required to send a notice of the inmate's release to all persons who have requested that notice, including victims of, and certain witnesses to, the violent crime for which the inmate was incarcerated.

This bill would require the department to supply a form to designated agencies for use by victims and witnesses to request notification of the release, escape, or death of the violent offender. The bill would require those agencies to give the form to those persons and to forward the completed forms to the department. Because the bill would require local agencies to provide and process notice forms, the bill would impose a state-mandated local program. The bill would provide that all information relating to any person receiving notice pursuant to these provisions is confidential and is not subject to disclosure pursuant to the California Public Records Act.

~~This bill would provide that changes in Section 3058.6 of the Penal Code proposed by the bill shall not become operative if AB 2294 is enacted and amends that section.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 679.03 of the Penal Code is amended to read:

679.03. (a) With respect to the conviction of a defendant involving a violent offense, as defined in subdivision (b) of Section 12021.1, the county district attorney, probation department, and victim-witness coordinator shall confer and establish an annual policy within existing resources to decide which one of their agencies shall inform each witness involved in the conviction who was threatened by the defendant following the defendant's arrest and each victim or next of kin of the victim of that offense of the right to request and receive a notice pursuant to Section 3058.8. If no agreement is reached, the presiding judge shall designate the appropriate county agency or department to provide this notification.

(b) The Department of Corrections shall supply a form to the agency designated pursuant to subdivision (a) in order to enable persons specified in subdivision (a) to request and receive notification from the department of the release, escape, or death of the violent offender. That agency shall give the form to the victim, witness, or next of kin of the victim for completion, explain to that person or persons the right to be so notified, and forward the completed form to the department. The department or the Board of Prison Terms is responsible for notifying all victims, witnesses, or next of kin of victims who request to be notified of a violent offender's release, as provided by Section 3058.8.

(c) All information relating to any person receiving notice pursuant to subdivision (b) shall remain confidential and is not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Title 7 of Division 1 of the Government Code).

~~SEC. 2. Section 3058.6 of the Penal Code is amended to read:~~

~~3058.6. (a) Whenever any person confined to state prison is serving a term for the conviction of a violent felony listed in subdivision (c) of Section 667.5 or for a violation of Section 264.1, the Board of Prison Terms, with respect to inmates sentenced pursuant to subdivision (b) of Section 1168 or the Department of Corrections, with respect to inmates sentenced pursuant to Section 1170, shall notify the sheriff or chief of police, or both, and the district attorney, having jurisdiction over the community in which the person was sentenced and, if different, those law enforcement persons having jurisdiction over the community in which the person is scheduled to be released on parole or rereleased following a period of confinement pursuant to a parole revocation without a new commitment. The notification shall be made at least 45 days prior to the scheduled release date and shall include the name of the person who is scheduled to be released, whether or not the parolee is required to register with law enforcement, and the community in which the person will reside.~~

~~Those agencies receiving the notice referred to in this subdivision shall have 15 days from receipt of the notice to provide written comment to the board or department regarding the impending release. Those comments shall be considered by the board or department which may, based on those comments, modify its decision regarding the community in which the person is scheduled to be released.~~

~~(b) In the event that the court orders the immediate release of an inmate, the department shall notify the sheriff or chief of police, or both, and the district attorney, having jurisdiction over the community in which the person is scheduled to be released on parole at the time of release.~~

~~(c) The notification required by this section shall be made whether or not a request has been made under Section 3058.5.~~

~~(d) The time limits imposed by this section are not applicable where the release date of an inmate has been advanced by restoration of behavior credits, presentence~~

~~credits, or other process or procedure that could not have reasonably been anticipated by the Department of Corrections and where, as the result of the time adjustments, there is less than 30 days remaining on the sentence before the inmate's release on parole, but notice shall be given as soon as practicable. In no case shall notice required by this section to the appropriate agency be later than the day of release on parole. If, after the 45-day notice is given to law enforcement and to the district attorney, there is change of county placement, notice to the ultimate county of placement shall be made upon the determination of the county of placement.~~

~~SEC. 3.~~

SEC. 2. Section 3058.8 of the Penal Code is amended to read:

3058.8. (a) At the time a notification is sent pursuant to subdivision (a) of Section 3058.6, the Board of Prison Terms or the Department of Corrections, as the case may be, shall also send a notice to persons described in Section 679.03 who have requested a notice informing those persons of the fact that the person who committed the violent offense is scheduled to be released and specifying the proposed date of release. Notice of the community in which the person is scheduled to reside shall also be given only if it is (1) in the county of residence of a witness, victim, or family member of a victim who has requested notification; or (2) within 25 miles of the actual residence of a witness, victim, or family member of a victim who has requested notification. If, after providing the witness, victim, or next of kin with the notice, there is any change in the release date or the community in which the person is to reside, the board or the department shall provide the witness, victim, or next of kin with the revised information.

(b) In order to be entitled to receive the notice set forth in this section, the requesting party shall keep the department or board informed of his or her current mailing address.

(c) The board or department, when sending out notices regarding an offender's release on parole, shall

1 use the information provided by the requesting party in
2 the form completed pursuant to subdivision (b) of
3 Section 679.03, unless that information is ~~not~~ *no* longer
4 current. If the information is no longer current, the
5 department shall make a reasonable attempt to contact
6 the person and to notify him or her of the impending
7 release.

8 ~~SEC. 4. Section 2 of this act, which amends Section~~
9 ~~3058.6 of the Penal Code, shall not become operative if~~
10 ~~Assembly Bill 2294 of the 1995-96 Regular Session is~~
11 ~~enacted and amends Section 3058.6 of the Penal Code.~~

12 ~~SEC. 5.~~

13 ~~SEC. 3.~~ Notwithstanding Section 17610 of the
14 Government Code, if the Commission on State Mandates
15 determines that this act contains costs mandated by the
16 state, reimbursement to local agencies and school
17 districts for those costs shall be made pursuant to Part 7
18 (commencing with Section 17500) of Division 4 of Title
19 2 of the Government Code. If the statewide cost of the
20 claim for reimbursement does not exceed one million
21 dollars (\$1,000,000), reimbursement shall be made from
22 the State Mandates Claims Fund.

23 Notwithstanding Section 17580 of the Government
24 Code, unless otherwise specified, the provisions of this act
25 shall become operative on the same date that the act
26 takes effect pursuant to the California Constitution.